

**Draft
Environmental Assessment**

**Wall Creek Wildlife Management Area
Grazing Lease Renewal**

2017



***Montana Fish,
Wildlife & Parks***

Draft Environmental Assessment MEPA, NEPA, MCA 23-1-110 CHECKLIST

PART I. PROPOSED ACTION DESCRIPTION

1. Proposed state action: Montana Fish, Wildlife and Parks (FWP) proposes to renew an existing grazing lease at Wall Creek Wildlife Management Area (WCWMA) for 9 years.

2. Agency authority for the proposed action: Montana Fish, Wildlife and Parks is the owner of the 7,697 acre WCWMA which was acquired under FWP's authority to acquire property for fish, wildlife and recreation pursuant to 87-1-241, Montana Code Annotated. FWP further has the authority "to enter into leases of land under its control in exchange for services to be provided by the lessee on the leased land" pursuant to 87-1-209 (7), MCA. Under FWP's Land Lease-Out Policy, the Department Director is the appropriate level of authority to provide approval for this lease-out renewal.

3. Anticipated Schedule: The lease shall renew upon execution of the lease renewal which, pending approval of the course of action outlined in this environmental assessment, is anticipated to be in May 1, 2018, and the lease is proposed to extend through September 30, 2026.

4. Location affected by proposed action (county, range and township): The portions of the WCWMA in the proposed grazing system are in southern Madison County. See Appendix 1 for the full legal description of land included in the proposed grazing lease. Figure 1 more specifically illustrates the boundaries of the proposed grazing pastures.

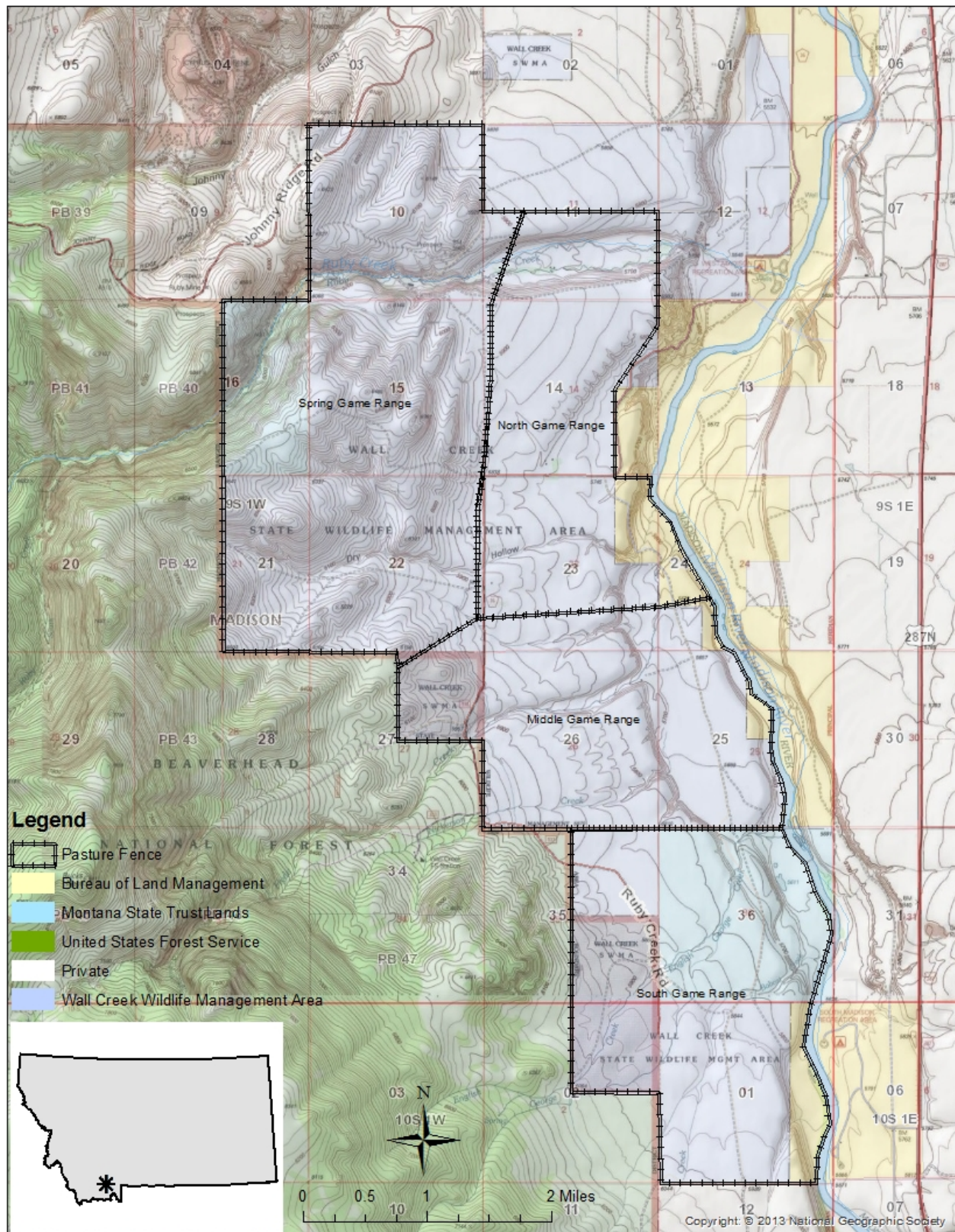


Figure 1: Wall Creek Wildlife Management Area and surrounding lands. Note that all internal fencing, and approximately 2 miles of perimeter fence is now drop-down electric wire to minimize the effects of fencing on animal movement.

5. Project size – The WCWMA grazing system occurs on approximately 6,597 acres of rangeland (native grassland, non-native grassland, and sagebrush grassland), 300 acres of riparian areas, and 190 acres of Douglass fir-dominated woodlands.

6. Listing of any other Local, State or Federal agency that has overlapping or additional jurisdiction. The Bureau of Land Management (BLM), Montana Department of Natural Resource and Conservation Service (DNRC), and United States Forest Service (USFS) participate in this cooperative grazing system.

(a) **Permits:** N/A

(b) **Funding:** The BLM charges the Wall Creek Grazing Association (WCGA) directly for Animal Use Months (AUMs) on their lands within FWP pastures based on the federal lands grazing rate, which may fluctuate annually. FWP holds the DNRC leases within the bounds of the WMA and directly pays DNRC for the AUMs used based on the DNRC grazing rate, which may fluctuate annually. For 2017, the DNRC grazing rate will be \$14.41. FWP charges a standard rate for grazing on the WMA and is allowed by law to charge up to two times the DNRC rate for grazing on the DNRC lease (not to exceed FWP's standard rate), or FWP charges one half of its standard rate in exchange or the lessee assuming all fence maintenance responsibilities. For 2017, the FWP standard rate was set at \$24.00 per AUM. The FWP standard grazing rate may fluctuate annually. Under the proposed action, the WCGA would pay one-half of the FWP standard grazing rate and assume fence maintenance responsibility as outlined in Appendix C.

(c) **Other Overlapping or Additional Jurisdictional Responsibilities:** FWP, USFS, BLM, and DNRC have been long-term partners with the WCGA through the development and implementation of a cooperative rest-rotation grazing system. FWP provides 4 of the 10 total pastures used in the grazing rotation. The DNRC owns 918 acres inside WCWMA. The BLM owns less than 300 acres, and have been willing partners to change their management to accommodate the system. The USFS owns the remaining 6 pastures of the 16,870 acre grazing system.

7. Narrative summary of the proposed action or project including the benefits and purpose of the proposed action: To understand the proposed action, it is important to understand the original intent of the grazing lease and how conditions have changed to make alterations to the original plan necessary.

HISTORY: The WCWMA was purchased in 1960, and there was no cattle grazing for the next 21 years. By 1982, the original prescriptive needs for the WCWMA grazing lease were as follows:

- “An exchange of forage use intended to mutually benefit all parties involved by the improvement of the condition and palatability of the forage base”.
- To allow for a rotational system including rest pastures on the USFS lands behind WCWMA thereby increasing elk forage availability
- To increase control and management of livestock during the occasional early fall snowstorms that could push them out of the hills and down onto WCWMA. With this grazing system, the cows had a designated place to go in fall and consistent rest pastures.

- To form a cooperative agreement with area ranchers to receive in-kind services which were mainly to supervise livestock use and to prevent “undesirable levels of forage utilization” on the USFS or FWP lands
- To enhance desirability of WCWMA for elk to reduce game damage to neighboring lands.

As previously mentioned, the Wall Creek cooperative grazing system includes 10 pastures. Four are within the WCWMA, and 6 are on USFS lands. Three (North, Middle, and South Game Range) of the four pastures within the WCWMA are considered low elevation pastures. They are grazed during the May 1 – June 1 and September 23-30 rotations. One (Spring Game Range) pasture within the WCWMA is considered a mid-elevation pasture. It is grazed during the June 2-July 14 and September 15-22 rotations. The USFS pastures are grazed during the June 2-September 22 rotations.

The annual grazing rotation is initiated with May 1-June 1 grazing on one low-elevation pasture within the WCWMA. From June 2 through September 22, livestock rotate through five of seven high elevation pastures. Two of the seven high elevation pastures are rested annually. From September 23-30, livestock graze one of the low elevation pastures within the WCWMA. One of the three low elevation pastures within the WCWMA is rested annually. The system is designed so that the pastures rested during the previous year (those with the greatest residual vegetation) are the first to be grazed during the current year. Those that were grazed late during the previous year (those with the least residual vegetation) are rested during the current year. This rotation allows livestock to graze one pasture on WCWMA in early spring before rapid growth phase in range grasses occurs, leaving plant re-growth available to wintering elk. The fall pasture, used for a short time by livestock, does reduce the amount of forage available to wintering elk within that pasture. Each year, one pasture is fully rested, and all vegetation is available to wintering elk. This system’s history, development, and goals are detailed in Alt et al. 1992.

The history of payment or in-kind services is not completely documented. The original 1982 lease describes payment at the federal rate, and in 1993, payment rates were also calculated. The 2000-2005 and 2005-2008, and 2008-2012 leases specify payment of in-kind services, limited to FWP having the authority to determine who may join the Wall Creek Grazing Association and who grazes on the land. FWP has not found written record of in-kind services relative to assistance with fencing or tolerance for elk on private lands.

TODAY: There have been several changes and research projects which have formed the basis for the Proposed Action.

- Management of USFS lands has moved to “range readiness” rotation based on standards and utilization. This has made the grazing system increasingly problematic during spring. The June 1 spring rotation deadline was a compromise made by FWP to make the system work: it is on or after the true phenological onset of boot stage in most years. Thus, FWP treats June 1 as a very hard deadline for cattle to move. The further this move date is delayed, the further into phenological rapid growth the pasture progresses and the less standing forage will be available for elk the following winter. The USFS often finds their lands not ready to receive cows this early, and they ask for FWP to retain them longer on the WMA.
- The number of elk wintering on and around the Wall Creek WMA has increased from approximately 1,000 prior to the WMA becoming a part of the cooperative grazing system in the early 1980s to a peak of approximately 3,000 in the mid-1990s, and approximately 2,500 over the past five years (Figure 2). Similar elk population trends have been observed across the entire Gravelly Elk Management Unit, which includes the west Madison Valley winter range (Figure 3), and the east

Madison Valley winter range (Figure 4). These survey data demonstrate that the observed growth of elk use of the WMA, following implementation of the grazing system, was not unique to the west Madison Valley winter range or the WMA, AND suggest increased elk use of the Wall Creek WMA was likely influenced by growing elk populations in addition to implementation of the grazing prescription. The data also demonstrate that implementation of the Wall Creek WMA grazing system did not prevent elk population growth, across the Gravelly Elk Management Unit or the West Madison Valley winter range, to management objective, and has not prevented maintenance of those elk populations within objective. Implementation of the Wall Creek WMA grazing system allowed MFWP to meet its elk management objectives while sharing use of the WMA with livestock producers who own land within the Madison Valley and share said land with 1,000 – 1,500 wintering elk annually.

- FWP analyzed elk distributions across WCWMA pastures in the context of grazing prescriptions (1988-2007; Shamhart et al. 2012). Elk selected for rested pastures over the fall- or spring-grazed pastures which were selected over summer-grazed pastures. Notably, rested pastures are within a grazing system and therefore are different than ungrazed pastures. Elk use of WCWMA increased proportionately with the increases in the herd; thus the grazing system met its original objectives in providing quality forage for elk.
- The WCGA has reduced their involvement from at least 6 different members with approximately 800 cattle to two members with about 350 cattle.
- FWP continues to study WCWMA vegetation using transects and exclosures. FWP's plant ecologist reported the vegetative community is "healthy and stable" (Harrington 2013). The context of the site is important to remember: soils are thin, and the area is dry and windblown. The long-term history of the site includes heavy use in the 60-70 years before FWP's purchase of the land. Nonetheless, the grass appears to be in good if not excellent condition.
- FWP has observed a dramatic increase in elk grazing intensity of smooth brome and crested wheatgrass fields since the cattle grazing system was established. They went from essentially non-use to intensive use by elk.
- The elk herd that utilizes the Wall Creek WMA during the winter season may contain elk that are sero-positive for brucellosis. Within the current and proposed grazing system, livestock enter the WMA prior to the end of the transmission risk period (January 15-June 15). In spite of the possible transmission risk, wintering elk will be given priority on the WMA. No brucellosis transmission mitigation actions, such as hazing of elk, will be implemented on the WMA. Livestock producers will need to recognize and accept potential risk of transmission to cattle during initial use periods.

8. Alternatives:

Alternative A: No Action

Under no action, the lease expires and there would be no grazing on WCWMA. A disadvantage to this alternative would be controlling fall grazing of livestock, especially in the event of early-season snowstorms which have historically moved cattle out of the mountains and onto the WMA. FWP/private landowner relationships within the Madison Valley, private landowner tolerance of wintering elk in the Madison Valley, and hunter access to private lands in the Madison Valley would all be negatively impacted. Because elk within the Gravelly Elk management unit are being managed within management objective and are recruiting calves and near record ratios (Figure 5), removal of the grazing system would not be expected to benefit elk in terms of total population or herd health.

Alternative B: Proposed Action

Maintain the 3-pasture rest-rotation system, as described above, for the 9 years (2018-2026). FWP would allow spring and early summer (May 1-July 14) and early fall (September 15-30) grazing on Wall Creek WMA in the same rest-rotation system in cooperation with the USFS, BLM, DNRC, and local ranching partners as has been occurring for the past 33 years. Animal use of the WMA would vary annually from approximately 220 to 600 animal units month depending on the annual rotation. The grazing association will pay for a grazing lease on the WMA as well as perform fence maintenance activities as outlined within Appendix A.

The desire for a 9-year lease is to allow the grazing system to function for 3 complete grazing cycles. One cycle through a 3-pasture rest-rotation system requires three years. The longer lease period is also desired at this point because no changes to the grazing system are being considered, and short lease cycles do not allow sufficient time to detect changes in rangeland health trend. Longer lease terms are desired by the livestock producers because of financial planning.

The Wall Creek Grazing Association members will be charged the one-half the MFWP standard grazing rate of \$24.00 per AUM and assume fence maintenance responsibilities outlined in Appendix C. The FWP standard grazing rate is subject to annual change.

See Appendix A for the proposed grazing lease.

9. Literature Cited

- Alt, K.L., M.R. Frisina, and F.J. King. 1992. Coordinated management of elk and cattle, a perspective – Wall Creek Wildlife Management Area. *Rangelands* 14:12-15
- Harrington, B. 2011. Wall Creek Wildlife Management Area Vegetation Monitoring. Federal Aid in Wildlife Restoration Project W-154-R. 50pp.
- Shamhart, J., F. King, and K. Proffitt. 2012. Effects of a rest-rotation grazing system on wintering elk distributions at Wall Creek, Montana. *Rangeland Ecology and Management*. 65: 129-136.

PART II. ENVIRONMENTAL REVIEW CHECKLIST

Evaluation of the impacts of the Proposed Action including secondary and cumulative impacts on the Physical and Human Environment.

A. PHYSICAL ENVIRONMENT

1) Land resources. Will the proposed action result in:

- a. **Soil instability or changes in geologic substructure?
- b. Disruption, displacement, erosion, compaction, moisture loss, or over-covering of soil, which would reduce productivity or fertility?
- c. **Destruction, covering, or modification of any unique geologic or physical features?
- d. Changes in siltation, deposition, or erosion patterns that may modify the channel of a river or stream or the bed or shore of a lake?
- e. Exposure of people or property to earthquakes, landslides, ground failure, or other natural hazard?

The proposed action would have no additional effect to soil conditions as cattle have used and grazed this area in a controlled manner for more than 30 years through this rest-rotation system, and conditions are consistently monitored on the WMA.

2) Air. Will the proposed action result in:

- a. **Emission of air pollutants or deterioration of ambient air quality? (Also see 13 (c).)
- b. Creation of objectionable odors?
- c. Alteration of air movement, moisture, or temperature patterns or any change in climate, either locally or regionally?
- d. Adverse effects on vegetation, including crops, due to increased emissions of pollutants?
- e. ***For P-R/D-J projects, will the project result in any discharge, which will conflict with federal or state air quality regulations? (Also see 2a.)
- f. Other:

The proposed action would not change the ambient air quality at the WMA.

3) Water. Will the proposed action result in:

- a. Discharge into surface water or any alteration of surface water quality including but not limited to temperature, dissolved oxygen, or turbidity?
- b. Changes in drainage patterns or the rate and amount of surface runoff?
- c. Alteration of the course or magnitude of floodwater or other flows?
- d. Changes in the amount of surface water in any water body or creation of a new water body?
- e. Exposure of people or property to water related hazards such as flooding?
- f. Changes in the quality of groundwater?
- g. Changes in the quantity of groundwater?
- h. Increase in risk of contamination of surface or groundwater?
- i. Effects on any existing water right or reservation?
- j. Effects on other water users as a result of any alteration in surface or groundwater quality?
- k. Effects on other users as a result of any alteration in surface or groundwater quantity?
- l. ****For P-R/D-J, will the project affect a designated floodplain? (Also see 3c.)

- m. ***For P-R/D-J, will the project result in any discharge that will affect federal or state water quality regulations? (Also see 3a.)
- n. Other:

Effects to the local streams and riparian areas (Bobcat Creek, English George, Hyde Creek, Ruby Creek) will be monitored but are expected to be the same as or of lower impact than what has occurred historically.

4) Vegetation. Will the proposed action result in:

- a. Changes in the diversity, productivity, or abundance of plant species (including trees, shrubs, grass, crops, and aquatic plants)?
- b. Alteration of a plant community?
- c. Adverse effects on any unique, rare, threatened, or endangered species?
- d. Reduction in acreage or productivity of any agricultural land?
- e. Establishment or spread of noxious weeds?
- f. ***For P-R/D-J, will the project affect wetlands, or prime and unique farmland?
- g. Other:

Wall Creek WMA has been the subject of vegetation transects, exclosure studies, and other research. Current results indicate the vegetation community is "stable if not improving." Under the proposed action, the vegetation community should continue this trend. There is no soil conversion or change in overall amount of land being grazed. FWP would continue to control weeds.

5) Fish and Wildlife. Will the proposed action result in:

- a. Deterioration of critical fish or wildlife habitat?
- b. Changes in the diversity or abundance of game animals or bird species?
- c. Changes in the diversity or abundance of nongame species?
- d. Introduction of new species into an area?
- e. Creation of a barrier to the migration or movement of animals?
- f. Adverse effects on any unique, rare, threatened, or endangered species?
- g. Increase in conditions that stress wildlife populations or limit abundance (including harassment, legal or illegal harvest or other human activity)?
- h. ***For P-R/D-J, will the project be performed in any area in which T&E species are present, and will the project affect any T&E species or their habitat? (Also see 5f.)
- i. ***For P-R/D-J, will the project introduce or export any species not presently or historically occurring in the receiving location? (Also see 5d.)
- j. Other:

There could be grizzly bears present, but likely in very small numbers, and this project should not affect their habitat.

6) Human Environment. Will the proposed action result in:

- a. Increases in existing noise levels?
- b. Exposure of people to serve or nuisance noise levels?
- c. Creation of electrostatic or electromagnetic effects that could be detrimental to human health or property?
- d. Interference with radio or television reception and operation?
- e. Other:

Movement of cattle involves some noise from the animals themselves. This occurs during daylight hours and is generally limited to the day of movement. None of these noises should result in any interference.

7) Land Use. Will the proposed action result in:

- a. Alteration of or interference with the productivity or profitability of the existing land use of an area?
- b. Conflict with a designated natural area or area of unusual scientific or educational importance?
- c. Conflict with any existing land use whose presence would constrain or potentially prohibit the proposed action?
- d. Adverse effects on or relocation of residences?
- e. Other:

The proposed action allows a grazing association to lease grazing on the WM which will benefit the association while providing for the needs of elk and other wildlife over a larger landscape beyond the WMA.

8) Risk/Health Hazards. Will the proposed action result in:

- a. Risk of an explosion or release of hazardous substances (including, but not limited to oil, pesticides, chemicals, or radiation) in the event of an accident or other forms of disruption?
- b. Affect an existing emergency response or emergency evacuation plan, or create a need for a new plan?
- c. Creation of any human health hazard or potential hazard?
- d. ***For P-R/D-J, will any chemical toxicants be used? (Also see 8a)
- e. Other:

The proposed action would not increase risks or health hazards at the WMA.

9) Community Impact. Will the proposed action result in:

- a. Alteration of the location, distribution, density, or growth rate of the human population of an area?
- b. Alteration of the social structure of a community?
- c. Alteration of the level or distribution of employment or community or personal income?
- d. Changes in industrial or commercial activity?
- e. Increased traffic hazards or effects on existing transportation facilities or patterns of movement of people and goods?
- f. Other:

The proposed action allows a grazing association to lease grazing on the WMA which will benefit the association and the local economy. There will be no increased hazard related to transportation or movement of people and goods as timing of all activities will remain the same.

10) Public Services/Taxes/Utilities. Will the proposed action result in:

- a. An effect upon or result in a need for new or altered governmental services in any of the following areas: fire or police protection, schools, parks/recreational facilities, roads or other public maintenance, water supply, sewer or septic systems, solid waste disposal, health, or other governmental services? If any, specify:
- b. An effect upon the local or state tax base and revenues?
- c. A need for new facilities or substantial alterations of any of the following utilities: electric power, natural gas, other fuel supply or distribution systems, or communications?
- d. Increased use of any energy source?
- e. **Define projected revenue sources
- f. **Define projected maintenance costs
- g. Other:

The proposed action would have no impact to public services to the WMA. The grazing lease requires the lessee to be responsible for maintaining fences and other responsibilities which will reduce the need for WMA maintenance staff to conduct these tasks. Under the **previous lease structure**, WMA staff spent approximately \$6,000 per year:

- \$4,500 in labor, mileage, and travel for putting up and taking down electric fences, erecting stream crossing fence on Ruby Creek, and numerous spall repairs.
- \$500 in supplies and materials for fence repairs.

Under the **proposed lease structure**, WMA staff would expect to spend about \$500 per year

- \$500 in supplies and materials for fence repairs.
- During years 2015 and 2016, grazing system costs relative to lease payment generated a net gain of \$14,305. Detailed expense records are not readily available prior to 2015. However, they will be maintained in detail moving forward, and available through the Sheridan Area Wildlife Biologist.

11) Aesthetics/Recreation. Will the proposed action result in:

- a. Alteration of any scenic vista or creation of an aesthetically offensive site or effect that is open to public view?
- b. Alteration of the aesthetic character of a community or neighborhood?
- c. **Alteration of the quality or quantity of recreational/tourism opportunities and settings? (Attach Tourism Report.)
- d. ***For P-R/D-J, will any designated or proposed wild or scenic rivers, trails or wilderness areas be impacted? (Also see 11a, 11c.)
- e. Other:

Some groups feel cattle presence reduces the wild and scenic value of public lands. However, the WMA is, and has been, grazed for 33 years. The proposed action does not therefore offer a landscape change. Grazing does not generally coincide with rifle hunting, but cattle may be present during archery season, upland bird hunting, and antler hunting in spring. This proposal does not alter the aesthetics and recreational opportunities from what they have been.

12) Cultural/Historical resources. Will the proposed action result in:

- a. Destruction or alteration of any site, structure or object of prehistoric historic, or paleontological importance?
- b. Physical change that would affect unique cultural values?
- c. Effects on existing religious or sacred uses of a site or area?
- d. ****For P-R/D-J, will the project affect historic or cultural resources? Attach SHPO letter of clearance. (Also see 12.a.)
- e. Other:

There will be no physical changes to WCWMA under this proposal.

13) Significance Criteria. Will the proposed action, considered as a whole:

- a. Have impacts that are individually limited, but cumulatively considerable? (A project or program may result in impacts on two or more separate resources that create a significant effect when considered together or in total).
- b. Involve potential risks or adverse effects, which are uncertain but extremely hazardous if they were to occur?
- c. Potentially conflict with the substantive requirements of any local, state, or federal law, regulation, standard or formal plan?

- d. Establish a precedent or likelihood that future actions with significant environmental impacts will be proposed?
- e. Generate substantial debate or controversy about the nature of the impacts that would be created?
- f. ***For P-R/D-J, is the project expected to have organized opposition or generate substantial public controversy? (Also see 13e.)
- g. ****For P-R/D-J, list any federal or state permits required.

The action should neither have cumulative impacts nor hazardous risks. The action should neither conflict with any laws nor establish any new precedents as it is not a new action. It is possible some controversy could result as grazing on public lands has recently been a topic of focus by some special interest groups.

2. Evaluation and listing of mitigation, stipulation, or other control measures enforceable by the agency or another government agency:

The terms of the lease agreement will provide the control measure for the lessee and FWP.

PART III. NARRATIVE EVALUATION AND COMMENT

The grazing plan on WCWMA is a long-term system that has worked very well to meet FWP goals for wildlife and habitat while managing livestock presence in the area. This proposal allows us to maintain existing agency and landowner partnerships and the structure of a useful and beneficial rest-rotation grazing system.

PART IV. PUBLIC PARTICIPATION

1. Describe the level of public involvement for this project if any, and, given the complexity and the seriousness of the environmental issues associated with the proposed action, is the level of public involvement appropriate under the circumstances?

The public will be notified in the following manners to comment on this current EA, the proposed action and alternatives:

- Two public notices in the Bozeman Chronicle, The Montana Standard (Butte), and the Helena Independent Record.
- Public notice on the Fish, Wildlife & Parks web page: <http://fwp.mt.gov>.

Copies of this environmental assessment will be distributed to interested parties to ensure their knowledge of the proposed project.

This level of public notice and participation is appropriate for a project of this limited scope.

2. Duration of comment period, if any.

The public comment period will extend for 30 days following the publication of the legal notice in area newspapers. Written comments will be accepted until September 8, 2017, and can be mailed to the address below (Part V, 2)

PART V. EA PREPARATION

1. **Based on the significance criteria evaluated in this EA, is an EIS required? (YES/NO)? NO**
If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action.
The proposed action will not have significant adverse or cumulative impacts on the local environment as it mainly continues an arrangement that has proven beneficial for wildlife habitat and agriculture for the past 30 years.
2. **Person responsible for preparing the EA:**
Dean Waltee
Sheridan Area Wildlife Biologist
PO Box 758
Sheridan, MT 59749
(406) 842-7407
dwaltee@mt.gov
3. **List of agencies consulted during preparation of the EA: BLM, DNRC, USFS**

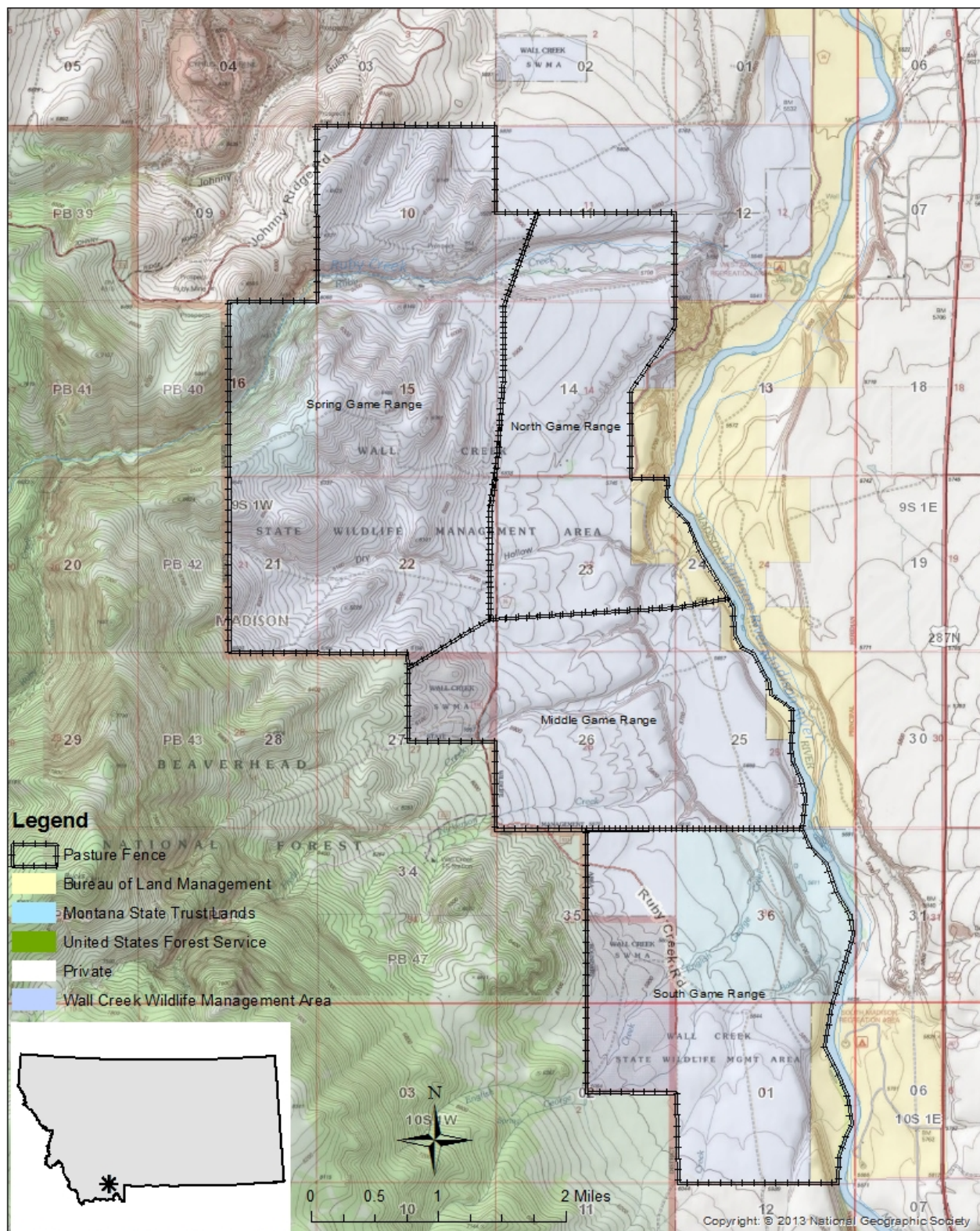


Figure 2: Wall Creek Wildlife Management Area and surrounding lands. Note that all internal fencing, and approximately 2 miles of perimeter fence is now drop-down electric wire to minimize the effects of fencing on animal movement.

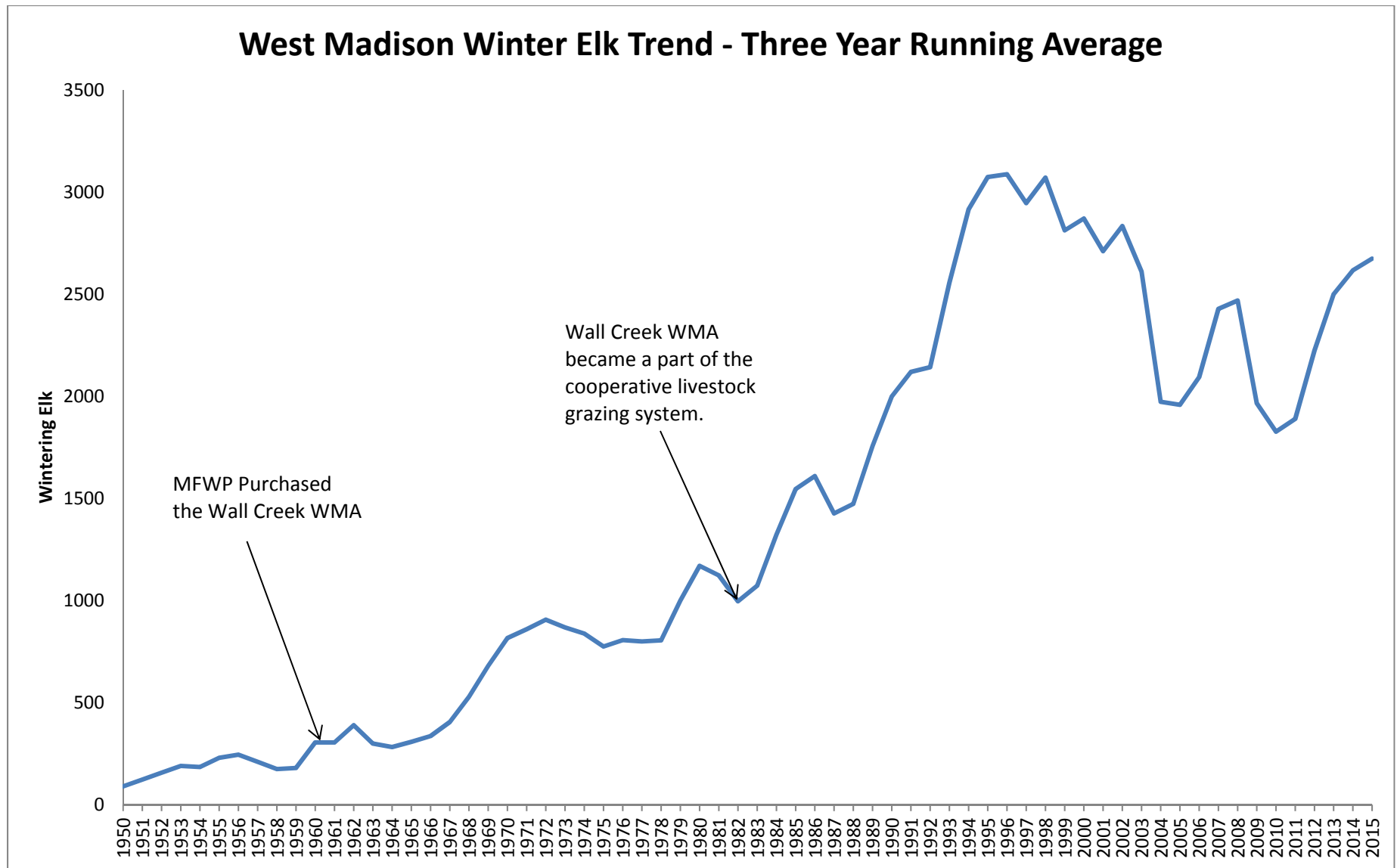


Figure 2. West Madison winter elk trend displayed as a three-year running average. Note: The majority of these elk spend all or a part of the winter season on the Wall Creek WNA.

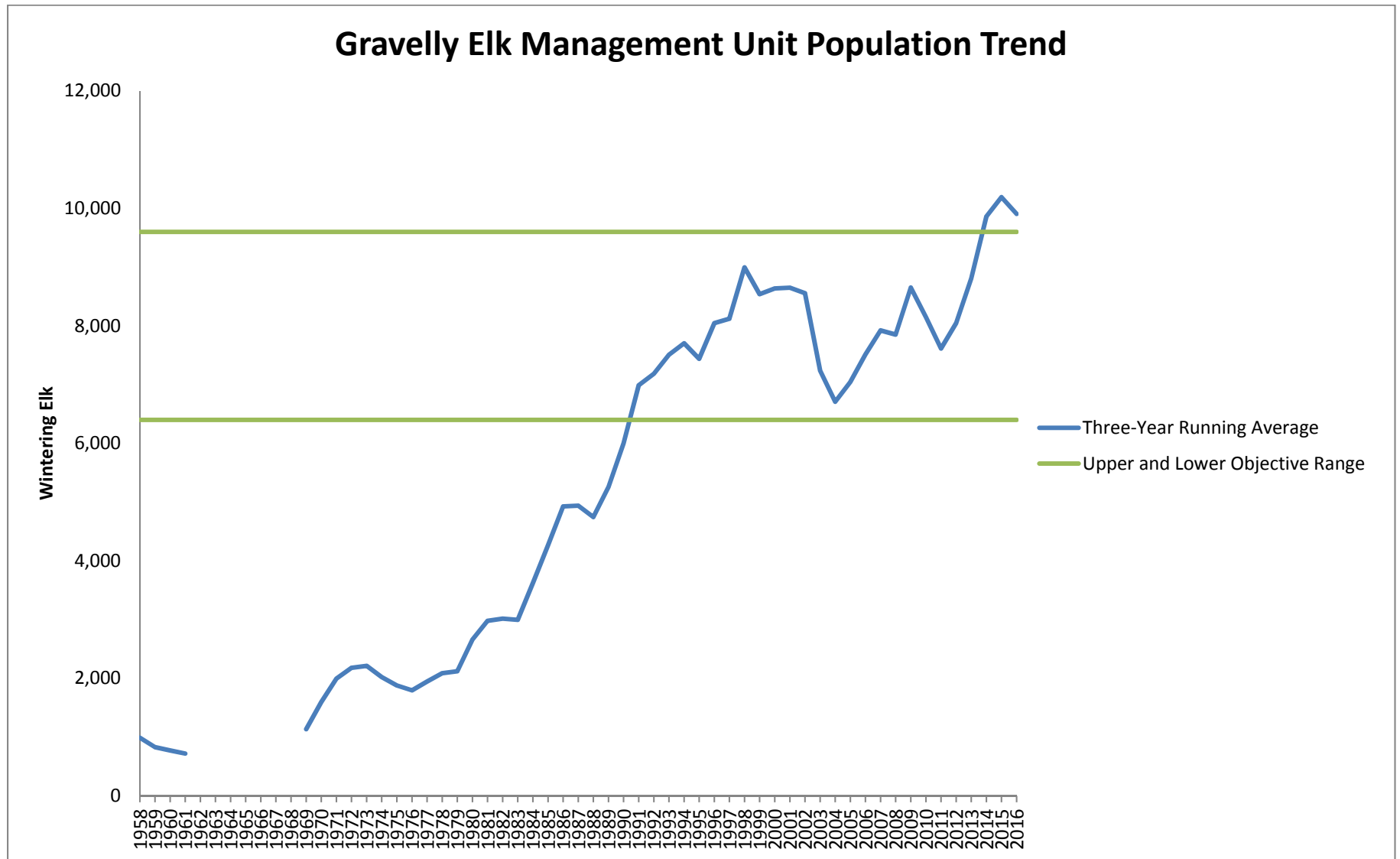


Figure 3. Gravelly Elk Management Unit, including the west Madison Valley winter range, elk population trend displayed as the three-year running average, relative to the population management objective range.

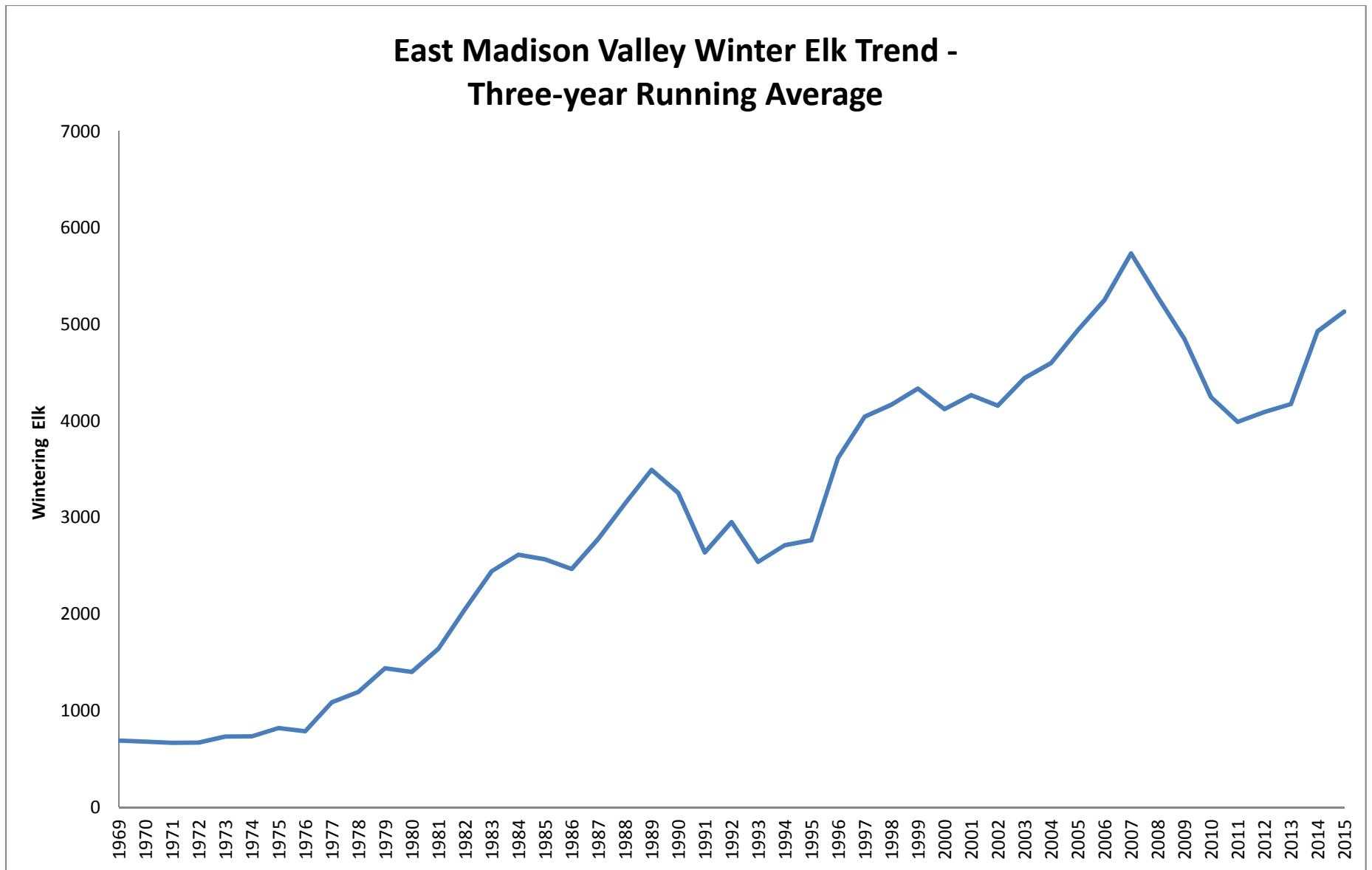


Figure 4. East Madison winter elk trend displayed as a three-year running average.

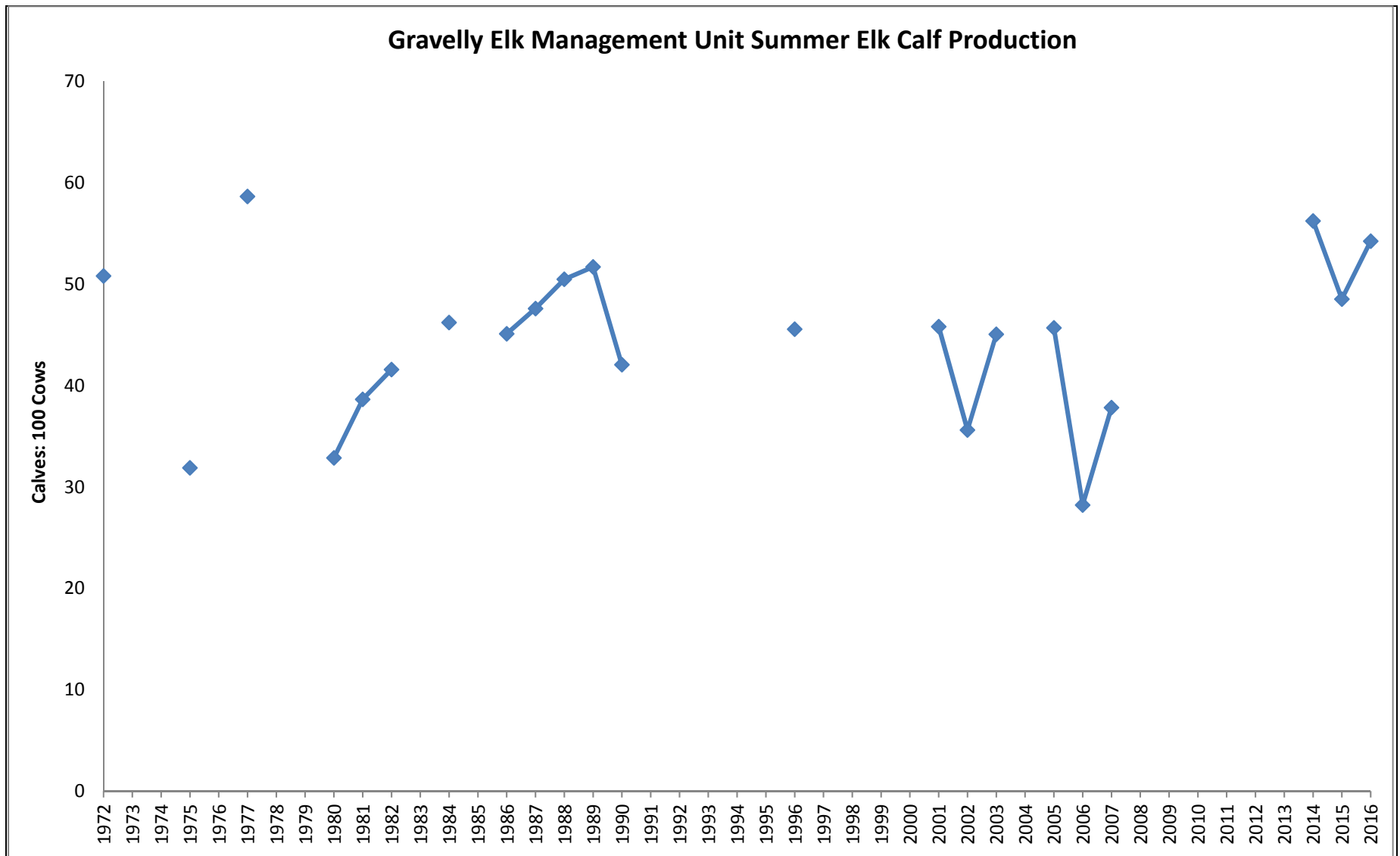


Figure 5. Gravelly Elk Management Unit summer calf production, 1972 – 2016.

Appendix A: Proposed Wall Creek Grazing Lease

Designated Area: Wall Creek WMA

Grazing Lease No. ____



**Montana Fish,
Wildlife & Parks**

THIS LEASE entered into this 24 day of April 2017 between the Montana Department of Fish, Wildlife and Parks, an agency of the State of Montana, whose main address is P.O. Box 200701, 1420 East 6th Avenue, Helena, Montana 59620-0701, hereafter referred to as the "Department" and Wall Creek Grazing Association, whose address is PO Box 131, Cameron, MT 59720, hereafter referred to as the "Lessee". Members of the Ledford Creek Grazing Association include; Gary Gustafson; 245 Jeffers Road, Ennis, MT 59729; (406) 579 - 6094; Jeff Laszlo, Granger Ranches; PO Box 691, Ennis, MT 59729; (406) 579 - 3434; and Brandon Brooks; 717 Edith Street, Missoula, MT 59801; (406) 407 - 3495.

STATEMENT OF BENEFIT TO VEGETATION & WILDLIFE: Livestock grazing on Wall Creek Wildlife Management Area is regulated by a rest-rotation grazing system. This system incorporates pastures on USFS lands as well. This grazing system is designed to increase and encourage re-growth of valuable forage plants thereby increasing the palatability of forage for wintering elk. Also, this system is designed to promote and protect healthy soils and plant communities. This grazing system offers valuable forage for domestic livestock owned by local ranchers.

The Department is the owner of or has under its control, certain real property located in Madison County, more particularly described in "Appendix A" attached hereto & incorporated herein.

The Department, in consideration of the payment of rentals specified in this lease and the mutual agreements contained in this lease, leases the property described above to the Lessee named above for agricultural purposes as herein established for the period beginning May 1, 2013, and ending September 30, 2017.

The Lessee, in consideration of the lease of the property described above and mutual agreements contained in this lease, hereby agrees to pay the rentals specified in this lease.

The parties to this lease mutually agree to the following terms and conditions:

- 1. GRAZING SEASON AND CAPACITY.** The grazing season hereunder is the period beginning May 1, 2013, and ending on September 30 of the same year. A maximum of 830 Animal Unit Months (AUM's) of grazing is permitted during each yearly grazing season. Rentals will be paid on the basis of actual AUM's grazed on the leased property.
1 Cow/Calf pair = 1 AUM 1 Bull = 1.5 AUM Yearling = 0.8 AUM 1 Horse = 1.25 AUM
- 2. RENTAL.** The renewal is \$12.00 per AUM for the 2017 grazing season. Beyond 2017, grazing fees will be adjusted annually based on the Agricultural Statistics Board report for private land leases (for deeded land) and DNRC annual AUM lease charges (for DNRC land). The lessee must meet the agreement set out Paragraph 14 for property maintenance to qualify for this lower rate. The standard rate would be the FWP grazing rate, which was set at \$24.00 per AUM for the 2017 grazing season.
☒ Payment is to be in cash.
☒ Payment is to be in services to be rendered in the manner agreed upon and set out in Paragraph 14 and Appendix C.

ALL RENTALS, WHETHER CASH OR SERVICES, ARE DUE BY October 1 EACH YEAR FOR AGRICULTURAL USE

CONDUCTED DURING THAT CALENDAR YEAR. FAILURE TO PAY THE AGREED UPON RENTAL OR TO PROVIDE THE SERVICES SET OUT IN PARAGRAPH 14 BY NOVEMBER 1 AUTOMATICALLY TERMINATES THIS LEASE. A NOTICE OF RENTAL DUE WILL BE SENT TO LESSEE AT THE ABOVE ADDRESS ONLY UNLESS A CHANGE OF ADDRESS HAS BEEN PROVIDED IN WRITING TO THE DEPARTMENT'S LIAISON AS IDENTIFIED IN THIS LEASE.

The Department shall have a lien upon all improvements, whether movable or not, all crops growing and livestock grazed upon the land for any rentals due the Department.

3. **RENTAL ADJUSTMENTS.** The Department reserves the right to determine the grazing capacity of the leased lands annually or from time to time as the Department in its discretion shall determine necessary and to increase or decrease the grazing capacity. If the Department determines that the grazing capacity of the leased lands should be increased or decreased, the Lessee agrees to pay an increased or decreased rental based upon the Department's determination, provided the Lessee actually grazes livestock to the level of any increased grazing capacity.

4. **LESSEE AGREES TO:**

- a. Use the lands in a manner that will not cause over-grazing, streambank damage, or other soil erosion, according to the usual and customary course of good grazing practices.
- b. Use the premises only for grazing purposes. Any other use of the premises by Lessee without prior written approval of the Department shall subject this lease to immediate cancellation.
- c. Provide the Department with the number of AUMs used by the Lessee on the premises for that year.
- d. Take all reasonable precautions to prevent fires and take such actions as are within the means of the Lessee to suppress fires.
- e. Use the land in such a manner as to control growth and spread of noxious weeds and to promote conservation of the leased lands.
- f. Not commit waste or damage to leased lands or allow any to be done.
- g. Comply with all applicable laws, rules, and regulations in effect at the date of this lease, or which may, from time to time, be adopted.
- h. Indemnify and hold harmless the Department, its officers, agents and employees against any claim of damage to person or property arising out of use of the leased lands, except for any such damage caused by the negligence or willful misconduct of the Department, its officers, agents or employees.
- i. Immediately, upon termination or expiration of the term of this lease, peaceably surrender and deliver up the leased lands to the Department.
- j. Not use the leased lands or this lease agreement as collateral for credit financing, or in any way, which would encumber the title to the property herein described. Failure to comply with this provision shall automatically terminate this lease and in no way shall it be construed as to cause the Department any financial obligation or responsibility.
- k. Not disturb or remove any archaeological, historical, or other cultural features or any improvements, which may currently exist, or may be found to exist, on the premises.
- l. Remedies for Unauthorized Uses and Practices - In the event the lessee violates, by the Department's determination, the grazing plan prescribed in Attachment A: of this lease, the lessee agrees to pay a fee equal to 3 times the number of animals found in violation of the grazing plan. This fee will be three times the AUM rental fee assigned by this lease, or the current annual grazing rate for FWP or DNRC, as described in Rental (2) above and Special Conditions (14) below. The Department at its sole discretion, and in addition to other remedies provided for in this lease, may require this fee of the Lessee. The Lessee agrees to pay this fee no later than the termination date of this lease. If this lease is renewed with the Lessee in subsequent years, the Department at its sole discretion, may reduce the number of animals allowed to graze the land under this lease a multiple of three times the number of animals found in violation for up to two years after the year of violation.

5. **PUBLIC ACCESS.** All lands leased in this agreement shall remain open to the public for hunting, fishing and other recreational activities, subject to applicable Federal and State laws and regulations.

6. **HERBICIDES AND PESTICIDES.** Lessee agrees that any use of herbicides or pesticides on the leased lands will be in compliance with all provisions of Federal and State laws regulating such substances. Any application of such substances must be approved in advance, by the Department's liaison as identified in this lease.
7. **IMPROVEMENTS.** No improvements may be placed upon the premises without prior written approval of the Department.
8. **TERMINATION.** The Department reserves the power and authority, at its discretion, to terminate this lease prior to expiration upon 30 days written notice for violation for any of the terms of this lease by Lessee. The Department also reserves the power to cancel this lease for fraud or misrepresentations, or for concealment of facts relating to its issue, which if known would have prevented its issue in the form or to the party issued; for using the land for other purposes than those specifically authorized by the lease, for any unlawful or other misuse of the lands, and for any other cause which in the judgment of the Department makes the cancellation of the lease necessary in order to do justice to all parties concerned, and to protect the interest of the Department. Notice of termination shall be deemed given upon deposit in the United States mails, addressed to the Lessee at the address shown above, unless a change of address has been provided in writing to the Department's liaison. The Lessee shall, upon termination of this lease, promptly and peaceably surrender possession and occupancy of the leased lands, leaving them in as good a condition as existed at the beginning of the term of this lease. Upon such termination, all rights of the Lessee in and to the leased lands shall cease and the Lessee shall not be entitled to any refunds of rentals paid. Termination of the lease does not terminate the Lessee's liability for rentals accruing prior to termination.
9. **SUBLEASING AND ASSIGNMENT.** Lessee shall not sublease or assign all or any part of the leased lands or assign this lease in whole or in part to any other person or entity. Such a sublease or assignment automatically terminates this lease.
10. **MODIFICATIONS.** This document constitutes the sole and entire agreement between the parties. No statements, promises or inducements made by either party which are not contained in this agreement are valid or binding unless evidenced in writing and signed by both parties; except that the provisions of Paragraph 3 may be implemented by written notice from the Department.
11. **SUCCESSORS IN INTEREST.** All terms, conditions and provisions of this lease shall be binding upon, inure to the benefit of, and be enforceable by and upon the successors in interest of the Department and the Lessee.
12. **VENUES AND APPLICABLE LAW.** Venue for any court action arising under this lease shall be in the First Judicial District in and for the County of Lewis and Clark, Montana and this lease shall be interpreted according to the laws of the State of Montana.
13. **DEPARTMENT LIAISON:** The Department designates Dean Waltee, Wildlife Biologist, (406)842-7407, Sheridan, Montana, Howard Burt, Region 3 Wildlife Program Manager, (406)994-6935, Bozeman, Montana, and Dave Green, Region 3 Wildlife Management Area Manager, (406)830-8558, Bozeman, Montana, as liaisons under this lease. Lessee will make all official contacts with the Department through the liaisons
14. **SPECIAL CONDITIONS:** The Department has the authority to determine if a new member of the Wall Creek Grazing Association would be allowed to graze on the Wall Creek WMA. This is necessary in order to accommodate specific issues including wildlife/livestock disease concerns, having assurances a new member understands the Department's approach to grazing and concerns for grazing, and ensuring a new member is collaborative with the Department. In addition, this grazing lease is not attached to a particular operator, the Department still needs to retain the ability to decide who grazes on the WMA, whether it be an individual lease or member of a grazing association. Payments were decided by the Wall Creek Grazing Association in 2012 to be, for the duration of this lease, the lower rate (one-half the MFWP standard rate), which is adjusted annually and is concurrent with the additional conditions and responsibilities outlined in Appendix C, attached.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS LEASE ON the DAY AND YEAR FIRST ABOVE WRITTEN.

Date:

Montana Fish, Wildlife & Parks
1420 East 6th Ave, Helena, MT 59620

Date:

Department Attorney Approval
(As Needed)

Date:

Gary Gustafson - Wall Creek Grazing Association President
245 Jeffers Road, Ennis, MT 59729

Date:

Granger Ranches, Jeff Laszlo
PO Box 691, Ennis, MT 59729

Date:

Brandon Brooks
717 Edith Street, Missoula, MT 59801

Appendix A. Legal Description, Wall Creek WMA Grazing Lease

T9S – R1W

Sec. 10 except NE $\frac{1}{4}$, NE $\frac{1}{4}$

S $\frac{1}{2}$ Sec. 11

SW $\frac{1}{4}$ Sec. 12

Sec. 14 except E $\frac{1}{2}$ SE $\frac{1}{4}$

Sec. 15

E $\frac{1}{2}$ Sec. 16

E $\frac{1}{2}$ Sec. 21

Sec. 22

Sec. 23 except E $\frac{1}{2}$, NE $\frac{1}{4}$

SW $\frac{1}{4}$, SW $\frac{1}{4}$, Sec. 24

That portion of the E $\frac{1}{2}$, SE $\frac{1}{4}$. Sec. 25 lying west of the Madison River

W $\frac{1}{2}$, Sec. 25 west of the Madison River

Sec. 26

NE $\frac{1}{4}$, Sec. 27

E $\frac{1}{2}$. Sec. 35

Sec. 36 west of the Madison River

T10S – R1W

Sec. 1 except E $\frac{1}{2}$, E $\frac{1}{2}$

NE $\frac{1}{4}$, Sec. 2

Appendix B. Grazing Exchange Agreement

THIS AGREEMENT, entered into this day of May 20, 2013, by and between the **Montana Department of Fish, Wildlife and Parks**, an executive branch agency of the state of Montana, hereinafter referred to as the "Department"; the **Forest Service, Beaverhead National Forest, U.S. Department of Agriculture**, hereinafter referred to as the "Forest Service"; and the **Wall Creek Stock Association** of Ennis, Montana, hereinafter referred to as the "Association";

WITNESSETH: That for and in consideration of the covenants hereinafter specified, it is mutually agreed by the parties hereto as follows:

1. **Purpose of Grazing Exchange.** This is an exchange of forage use intended to mutually benefit all parties involved by improvement of the condition and palatability of the forage base on all involved lands.
2. **Description of Lands on Which Grazing Use is Exchanged.** Subject to the conditions hereinafter set forth, the Department does hereby exchange grazing use with the Association for cattle use only during the grazing season herein established on the following described lands in Madison County of the State of Montana, which the Department either owns or leases for grazing purposes:
 - T9S – R1W
 - Sec. 10 except NE¼, NE¼
 - S½ Sec. 11
 - SW¼ Sec. 12
 - Sec. 14 except E½ SE¼
 - Sec. 15
 - E½ Sec. 16
 - E½ Sec. 21
 - Sec. 22
 - Sec. 23 except E½, NE¼
 - SW¼, SW¼, Sec. 24
 - That portion of the E½, SE¼. Sec. 25 lying west of the Madison River
 - W½, Sec. 25 west of the Madison River
 - Sec. 26
 - NE¼, Sec. 27
 - E½. Sec. 35
 - Sec. 36 west of the Madison River
 -
 - T10S – R1W
 - Sec. 1 except E½, E½
 - NE¼, Sec. 2
3. **Terms of Exchange.** The Department hereby exchanges grazing use on the above described lands, for a one month reduction in grazing use on lands for which title is held by the Forest Service. The involved lands for which title is held by the Forest Service is termed the Wall Creek Allotment (see Attachment A).

4. **Grazing Plan.** It is mutually agreed by the involved parties that the Association's cattle will be grazed on described lands as presented in Table 1.

Table 1. Annual grazing rotation.

Year	Spring Game Range	North Game Range	Middle Game Range	South Game Range
2018	B	E	A	D
2019	C	A	D	E
2020	E	D	E	A
2021	B	E	A	D
2022	C	A	D	E
2023	E	D	E	A
2024	B	E	A	D
2025	C	A	D	E
2026	E	D	E	A

A = Graze May 1 – June 1

B = Graze June 2 – July 14

C = Graze September 15 – September 22

D = Graze September 23 – September 30

E = Rest

5. **Mutual Agreement.** The Association, the Department, and the Forest Service shall jointly
- Assess levels of forage utilization and supervise the movement of livestock to prevent undesirable levels of forage utilization in the Ruby and Madison drainages or other areas deemed as problem areas.
 - Supervise livestock use of the area to determine mutual benefits and problems so the objectives of the exchange can be satisfied.
 - Allow mutual ingress to, passage over, and egress from all lands involved in the grazing exchange to agents and employees of the Department, the Association, and the Forest Service for the purpose of exercising, enforcing, and protecting the rights of the respective parties.
6. **Applicability.** All provisions contained herein shall apply to, and be binding upon, the successors and assigns of each of the parties hereto.
7. **Modifications.** This writing constitutes the sole and complete agreement between the parties and no modifications of this agreement shall be binding unless in writing and signed by all parties and attached to this agreement.

APPENDIX C: Grazing Lessee Responsibilities

STANDARD RATE (FWP Rate)

The STANDARD RATE is based on an average of the prior year's Animal Unit rate of private leases reported by the National Agricultural Statistics Service. When the lessee pays the STANDARD RATE for grazing fees, they are responsible for:

- a) Following the grazing rotation and opening and closing gates according to the schedule agreed upon in the lease.
- b) Alerting FWP immediately of any issues that may be cause for diverging from scheduled movement dates.
- c) Maintaining and operating water systems to provide water to livestock.
- d) Check fences and gates prior to moving livestock into a pasture to ensure its effectiveness.
- e) Closing all gates in a pasture before grazing and opening ALL the interior gates to a pasture system within one week of leaving the pasture.
- f) Minor and/or short-term repairs to fences to retain livestock in occupied pastures.
- g) Report to FWP needs for more permanent or substantial fence repair (e.g., post replacement).
- h) Removing all salt blocks, mineral supplements and their containers (i.e. crystalux tubs) at the end of the grazing season.

LOW RATE (one-half FWP Rate)

In addition to responsibilities listed under the STANDARD RATE, when the lessee receives the reduced rate for grazing fees, they are responsible for:

- a) Maintaining all fences associated with the defined grazing system to prevent loss of livestock and to prevent trespass livestock from neighboring properties, whether or not that pasture is currently in use by the lessee.
- b) Maintaining the fence wires in good condition including keeping the wire stretched and taunt so that they do not become wildlife entrapment hazards. Splices to the fence will be performed with twin strand (barbless) horse wire, barbed wire or approved splice connectors. Soft wire (i.e. single strand number 9 wire) will ***not*** be used for fence repair.
- c) Raising and lowering drop fences. Upon leaving a pasture, drop fences will be lowered within 2 weeks time.
- d) Identifying and replacing broken t-posts, corner posts and braces to keep the fence in good condition.
- e) Keeping trees and debris removed from the fences and repairing the damage that results from trees falling on the fence.
- f) Repairing damages caused by negligence on the part of the lessee or their agent (i.e., range rider). An example of this would be when the lessees do not lower a drop fence at the end of the season and, as a result, it is damaged by wildlife or sliding snow.

Under the LOW RATE, the WMA crew is responsible for:

- a) Assuring that all materials are provided to the lessees to allow repairs to be made.
- b) Assisting with relocation of fences (either permanent or temporary) to address functional problems with the grazing system.
- c) Assisting with fences that are too derelict to be maintained. An example of this would be for the WMA crew to help string electric fence along a section of Jack-leg fence that has fallen over from age as a "stop gap" measure until the derelict fence can be replaced.

